

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Wireless E911 Location Accuracy)	PS Docket No. 07-114
Requirements)	
)	

CORDOVA WIRELESS COMMUNICATIONS, LLC
PETITION FOR TEMPORARY WAIVER

Cordova Wireless Communications, LLC (“Cordova”), by its attorney and pursuant to Sections 1.3 and 1.925 of the Federal Communications Commission’s (“FCC” or “Commission”) Rules and Regulations¹ and the Commission’s *Fourth Report and Order*² hereby seeks a waiver of Section 20.18(i) of the FCC’s “indoor location accuracy for 911” Rules. Specifically, Cordova requests that the Commission waive the indoor accuracy requirements and related location requirements of Section 20.18(i), including the various reporting requirements, because the Public Safety Answering Point (“PSAP”) served by Cordova currently is incapable of receiving and using indoor location data and Phase II Enhanced 911 (“E911”) location data. Accordingly, Cordova requests a temporary waiver of the Commission’s indoor accuracy provision and reporting rules up to and until the PSAP served by Cordova is capable of receiving and using Phase II E911 location data.

¹ 47 C.F.R. §§ 1.3 and 1.925.

² *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd 1259, at ¶ 157 (2015) (discussing the applicable waiver standards) (“*Fourth Report and Order*”).

Background

Cordova is a small, rural provider of wireless telecommunications service in the city of Cordova on the southern coast of Alaska. The City of Cordova, nestled on the Prince William Sound and the Gulf of Alaska, can only be reached by boat or by air. Cordova and a single PSAP serve a rural region that is intrinsically remote and extremely challenging to serve, containing mountains, water, and islands. Cordova relies upon the Commission's high cost funding programs to build and maintain vital wireless telecommunications services in its service area where the provision of such services is inherently costly and technologically difficult due to the vast distances served, low population density, and extreme weather conditions. The Regulatory Commission of Alaska, in designating Cordova as an eligible telecommunications carrier ("ETC"), noted that Cordova is "the only provider of wireless services in some locations" and that it provides crucial "access to essential emergency services."³ Cordova recently began providing its customers with high speed VoLTE service.

The FCC Should Grant a Temporary Waiver of the Indoor Location Rules

Cordova provides essential wireless and emergency services to its customers in this remote area, for which there is only one PSAP to handle emergency calls. The PSAP for the City of Cordova is not capable of receiving and using Phase II E911 location data and has not requested that Cordova provide Phase II E911 service. Similarly, the PSAP for the City of Cordova is not capable of receiving and using indoor location accuracy data. Accordingly, Cordova has not implemented Phase II E911 service and has not implemented solutions to

³ *In re Application by Cordova Wireless Communications, Inc. for Designation as a Carrier Eligible to Receive Federal Universal Service Support Under the Telecommunications Act of 1996*, Order Approving Application for Eligible Telecommunications Carrier Status, and Requiring Filings, U-06-59, Order No. 2, Regulatory Commission of Alaska, Sept. 15, 2006.

provide indoor location data, nor should it be expected to spend its limited funding on implementing solutions to provide indoor location and Phase II E911 data that cannot be received, processed, or used by the local PSAP. While compliance with the Phase II E911 requirements is triggered by a valid PSAP request for Phase II E911 service,⁴ the Commission's indoor location Rules appear to operate independently of a PSAP request.⁵ Thus, Cordova has no choice but to request a waiver.

Grant of the Temporary Waiver Is Warranted and Would Serve the Public Interest

There is good cause to grant the requested temporary waiver up to and until the only PSAP served by Cordova is capable of receiving and using location data. It would be economically burdensome and futile to require Cordova to comply with the location accuracy rules until the only PSAP that Cordova serves is actually capable of receiving location data.

Pursuant to Section 1.3 of its rules, the Commission may waive any provision of the rules for good cause or where, due to special circumstances, deviation from a rule would better serve the public interest and the Commission's purposes than strict enforcement of the rule.⁶ The FCC may also take into account considerations of hardship, among other factors, when determining whether to grant a waiver.⁷

⁴ See 47 C.F.R. § 20.18(f).

⁵ Out of an abundance of caution, and to the extent necessary, Cordova requests a waiver of the Phase II location obligations that appear to have been implicitly incorporated into Section 20.18(i). While Cordova believes this request is unnecessary since Phase II, by Rule, (See, e.g., 20.18(f)) is triggered by a valid request from a PSAP, and the new, Section 20.18(i) "Indoor location accuracy" Rules seem to be in contradiction of the older Phase II Rules that require a valid request.

⁶ See 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

⁷ *WAIT Radio v. FCC*, 418 F.2d at 1159.

Cordova satisfies the Commission's waiver criteria. There is good cause to grant a temporary waiver of a rule, such as here, where there is only one PSAP that would be a beneficiary of a provider's compliance with Rule Section 20.18(i) and that PSAP currently is incapable of receiving and using the location data that Cordova would provide through compliance with the rule. Moreover, the Commission has previously recognized that grant of a waiver is in the public interest where, as here, "special circumstances particular to smaller carriers may warrant limited relief from 911 requirements."⁸ Such circumstances include "financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural, or characterized by difficult terrain (such as dense forest or mountains)."⁹ With the cost of the equipment needed to collect and provide location data reaching into the tens of thousands for a small carrier serving difficult, mountainous terrain like Cordova, it makes no sense for Cordova to spend such funds when the only PSAP that it serves simply cannot receive or do anything with the location data. The expense would be a waste of resources better used to serve customers in Cordova's isolated and vast terrain. In addition, it would also be a waste of resources for Cordova to attempt to report location data for 911 calls when such data does not exist due to the inability of the only PSAP that Cordova serves to use such data.

Approval of the requested temporary waiver also will serve the public interest since Cordova will dedicate its limited financial resources toward providing the best service it can to customers in this extremely remote area of the country, and Cordova will not be squandering such resources installing equipment and implementing location services that currently cannot be used by the intended recipient. Also, strict enforcement of the requirements of Sections 20.18(i)

⁸ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petitions for Waiver of Section 20.18(g)(1)(v) of the Commission's Rules*, Order, 22 FCC Rcd 8927, at ¶ 7 (2007).

⁹ *Id.*

and a denial of Cordova's requested temporary waiver would not serve the public interest for the same reasons. Grant of a temporary waiver is appropriate and necessary until the only PSAP in this remote area has the capability to receive and use location data.

Section 1.925(b)(3) of the Commission's Rules sets out the general standards for determining when a waiver should be granted in Wireless Telecommunications Bureau proceedings. The Commission may grant a request for waiver if it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.¹⁰

Under both of these standards, grant of the requested temporary waiver is warranted. Again, requiring Cordova to pay for equipment and attempt to transmit location data to a PSAP that cannot receive and use such data would do nothing to serve the underlying purpose of the Section 20.18(i) Rules, which is to deliver vital location data to the PSAP to be used in emergencies. Until the only PSAP that Cordova serves can actually use such location data, there is no need to attempt to collect location data, and likewise there is no location data to send. Application of the Section 20.18(i) reporting requirements and related provisioning standards to Cordova would be inequitable in light of the cost of acquiring the equipment necessary to calculate indoor locations coupled with the lack of capability of the local Cordova PSAP to do

¹⁰ 47 C.F.R. § 1.925(b)(3).

anything with such location data, a factor outside of Cordova's control. The inability of the PSAP to receive and use location data, leaves Cordova with no reasonable alternative but to seek a waiver.

Grant of the requested waiver is also consistent with both the public interest and the underlying purpose of the Commission's indoor location accuracy requirements with respect to enforcement. The Commission's Rules channel enforcement of the indoor location rules through PSAPs at the local level. As the FCC mandates, "PSAPs may seek Commission enforcement within their geographic service area of the requirements of paragraphs (i)(2)(i) and (ii) of this section, **but only so long as they have implemented policies that are designed to obtain all location information made available by CMRS providers** when initiating and delivering 911 calls to the PSAP."¹¹ To date, Cordova's local PSAP is technically unable to obtain location information that would be made available by Cordova. Accordingly, the underlying purpose of the rule to ensure that indoor location information can be used when the PSAP is technically able to use such information will still be met if the Commission waives the indoor location rules on a temporary basis until the local PSAP can actually process location data. Further, as discussed above, it is not in the public interest to require Cordova to expend limited financial resources on providing and reporting location data (that, as a practical matter, does *not* exist) when such data will have zero benefit until the local Cordova PSAP can actually use location data.

¹¹ 47 C.F.R. § 20.18(i)(2)(iv) (emphasis added).

Conclusion

For the foregoing reasons, Cordova respectfully requests that the Commission grant a temporary waiver of the Section 20.18(i) location and reporting requirements.

Respectfully requested,

CORDOVA WIRELESS COMMUNICATIONS, LLC

By: _____/s/_____

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